Reprinted
February 1, 2005

HOUSE BILL No. 1120

DIGEST OF HB 1120 (Updated January 31, 2005 4:04 pm - DI 92)

Citations Affected: IC 6-3.1; noncode.

Synopsis: Hoosier business investment tax credit. Extends the availability of the Hoosier business investment tax credit for investments made after December 31, 2007. Requires the economic development for a growing economy board to consider and evaluate all applications for credit awards using the criteria required by statute. Prohibits the board from establishing eligibility standards that are not specified by statute. Removes the board's authority to require performance conditions that are not specified by statute in an agreement between a taxpayer and the board. Clarifies the method for applying the tax credit to the members of a pass through entity.

Effective: January 1, 2004 (retroactive); July 1, 2005.

Espich, Klinker, Davis, Adams T

January 6, 2005, read first time and referred to Committee on Ways and Means.
January 27, 2005, reported — Do Pass.
January 31, 2005, read second time, amended, ordered engrossed.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *~~this style type~~* reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1120

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-26-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. **(a)** The board may make credit awards under this chapter to foster job creation and higher wages in Indiana.

(b) The board shall consider and evaluate all applications for credit awards using the criteria required by this chapter. The board may not establish eligibility standards that are not specified by this chapter.

SECTION 2. IC 6-3.1-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 16. **(a)** If a pass through entity does not have state tax liability growth against which the tax credit may be applied, **the pass through entity may compute the state tax liability growth that the pass through entity would have had if the pass through entity had been a taxpayer after applying all allowable deductions and credits in each taxable year over which state tax liability growth is computed.**

(b) If the pass through entity would have had state tax liability

growth if the pass through entity were a taxpayer, a shareholder, **member,** or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year **under this section;** multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, **member,** or partner is entitled.

SECTION 3. IC 6-3.1-26-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.

(4) The maximum tax credit amount that will be allowed for each taxable year.

(5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(7) A requirement that the taxpayer shall annually report to the board the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.

(8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified

investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

~~(13) Any other performance conditions that the board determines are appropriate.~~

SECTION 4. IC 6-3.1-26-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. ~~(a)~~ This chapter applies to taxable years beginning after December 31, 2003.

~~(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for a qualified investment made after December 31, 2007. However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2008, forward to a taxable year beginning after December 31, 2007, in the manner provided by section 15 of this chapter.~~

SECTION 5. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **IC 6-3.1-26-16, as amended by this act, applies to taxable years beginning after December 31, 2003.**

SECTION 6. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1120, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ESPICH, Chair

Committee Vote: yeas 21, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1120 be amended to read as follows:

Page 1, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 16. **(a)** If a pass through entity does not have state tax liability growth against which the tax credit may be applied, **the pass through entity may compute the state tax liability growth that the pass through entity would have had if the pass through entity had been a taxpayer after applying all allowable deductions and credits in each taxable year over which state tax liability growth is computed.**

(b) If the pass through entity would have had state tax liability growth if the pass through entity were a taxpayer, a shareholder, **member,** or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year **under this section;** multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, **member,** or partner is entitled.".

Page 3, after line 8, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] **IC 6-3.1-26-16, as amended by this act, applies to taxable years beginning after December 31, 2003.**

SECTION 5. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1120 as printed January 28, 2005.)

ESPICH